

**(1952) 09 AHC CK 0020**

**In the Allahabad High Court**

**Case No : Ex. First Appeal No. 9 of 1949**

The U.P. Government

APPELLANT

Vs

Firm Brij Mohan Lal

RESPONDENT

**Date of Decision : 11-09-1952**

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Section 82

**Citation : AIR 1953 All 96 : (1952) 22 AWR 634**

**Hon'ble Judges : Sapru, J; Harish Chandra, J**

**Bench : Division Bench**

**Advocate : J. Swarup and Gopalji Mehrotra, for the Appellant; Gopinath and J.C. Mukerji, for the Respondent**

**Final Decision : Allowed**

## Judgement

Sapru, J.—The judgment-debtor in this case is the Uttar Pradesh Government and the appeal has been preferred on its behalf. In 1946 the respondent firm filed a suit No. 7 of 1940, against the Government of U.P. for damages and the price of certain goods seized by that Government. A decree was passed in favour of the firm for a sum of Rs. 35,000 and odd. An appeal is pending in this Court. Barring the pendency of the appeal the firm applied for the execution of the decree. It also applied for the attachment of a sum of Rs. 23,000 deposited by the Government in the Ghazipur Treasury in its name. Objections were raised both to the execution of the decree and the attachment of the money by the Government, These objections were disallowed by the Court below and the Uttar Pradesh Government has come up in appeal to this Court.

2. The first point which has been urged on behalf of the appellant is that it was incumbent on the Court passing the decree to specify in the decree the time for payment. Reliance is placed on Section 82, Civil P. C. and it is pointed out that no time for payment is specified in the decree. We have looked into the provisions of Section 82, Civil P.C. and are satisfied that the objection is well founded. In the case of Governor-General in Council Vs. Pirmal Marwari, , the view was taken

that though a decree of this nature is not void, yet all the same it is not capable of execution. It was pointed out that a Court in passing a decree against the State has not only to declare that the State is liable either to pay some money or to do some act but has also to specify the time within which the decree has to be satisfied. In case the Court does comply with that provision of law, it has a further act to do, namely, to send a report to the Government in case of non-satisfaction of the decree within the time specified by it. For a period of three months after such report has been made the decree cannot be executed. The Patna High Court in that case directed the Court to proceed to complete the decree in terms of Section 82, Civil P.C. before it could be executed in accordance with the provisions of that section. We agree with the view which found favour with the Patna High Court and direct that the decree be completed, if it has not already been so completed, in terms of Section 82, Civil P.C., by the Court which passed it. Thereafter the judgment-debtor will be entitled to put the decree into execution in accordance with the provisions of that section.

3. In these circumstances we allow the appeal and direct that the decree be not executed until the provisions of Section 82, Civil P.C., have been complied with. We make no order as to costs in this case.